

JS 44 (Rev. 1/12)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Christopher E. Haney

(b) County of Residence of First Listed Plaintiff Delaware
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Leo A. Hackett
102 Chesley Drive, #1A
Media, Pa 19063

DEFENDANTS

Megan J. Brennan, ¹⁶ Postmaster General
and United States Postal Service,
et al

County of Residence of First Listed Defendant Phila

(IN U.S. PLAINTIFF CASES ONLY)

NOTE:

IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities Employment <input type="checkbox"/> 446 Amer. w/Disabilities Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Sex and race discrimination

Brief description of cause:

Breach of implied and/or express contract, unfair representation

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

\$150,000.

CHECK YES only if demanded in complaint:

JURY DEMAND:

☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

NOV 25 2016DATE 11/22/16 SIGNATURE OF ATTORNEY OF RECORD [Signature]

FOR OFFICE USE ONLY

MAG. JUDGE

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 120 Scheivert Avenue, Aston, Pa 19014

Address of Defendant: 3190 South 70th Street, Phila, Pa 19153

Place of Accident, Incident or Transaction: _____

(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes ☐

No ☒

Does this case involve multidistrict litigation possibilities?

Yes ☐

No ☒

RELATED CASE, IF ANY:

Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?
Yes ☐ No ☒
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?
Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☒ Labor-Management Relations
7. ☒ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☐ All other Federal Question Cases
(Please specify) _____

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify) _____
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases
(Please specify) _____

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, Leo A. Hackett,

counsel of record do hereby certify:

- ☒ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
- ☐ Relief other than monetary damages is sought.

DATE: 11/22/16

Attorney-at-Law

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

8936

Attorney I.D.#

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 11/22/16

Attorney-at-Law

8936

Attorney I.D.#

NOV 25 2016

Handwritten: \$400

CMR

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CHRISTOPHER E. HANEY
120 Scheivert Avenue
Aston, Pa 19014

Plaintiff

v.

MEGAN J. BRENNAN
Postmaster General
United States Postal Service
Eastern Area Agency

AND

The United States Postal Service
3190 South 70th Street
Philadelphia, Pa 19153

American Postal Workers Union AFL-CTO
617 West McDade Boulevard
Milmont Park, Pennsylvania 19033

American Postal Workers Union,
AFL-CTO Local# 725
617 West McDade Boulevard
Milmont Park, Pennsylvania 19033

AND

JUDY TRAILER, INDIVIDUALLY AND AS
COMPLEMENT COORDINATOR
Philadelphia Metropolitan District
3190 South 70th Street
Philadelphia, Pa 19153

AND

JOHN DOE and JANE DOE,
INDIVIDUALLY AND AS UNITED STATES
POSTAL SERVICE ADMINISTRATORS

Defendants

Civil Action #

16 6186

JURY TRIAL DEMANDED

COMPLAINT

I. INTRODUCTION

AND NOW, comes Christopher E. Haney, by and through his attorney, Leo A. Hackett, Esquire, and brings this Complaint based upon the following:

Plaintiff brings this action based upon sex and race discrimination, breach of implied and/or express contract, unfair representation, negligent misrepresentation, due process, the Fair Labor Standards Act, the Pennsylvania Wage Payment and Collection Act and retaliation.

1. Plaintiff is an adult individual who is residing at 102 Scheivert Avenue, Aston, Pa 19014.
2. Megan J. Brennan is the Postmaster General of the United States located at United States Postal Service, Eastern Area Agency, Philadelphia Pa.
3. The United States Postal Service is a federal corporation which provides mail delivery service.
4. American Postal Workers Union is the recognized representative of postal workers of which Plaintiff is a member with principal place of business located at 617 West McDade Boulevard, Milmont Park, Pennsylvania 19033.
5. American Postal Workers Union Local #725 is the local postal workers union representative of which Plaintiff is a member with principal place of business located at 617 West McDade Boulevard, Milmont Park, Pennsylvania 19033.

6. Judy Trailer is an individual and employee by United States Postal Service as District Complement Coordinator for the Philadelphia Metropolitan District.

7. John Doe and Jane Doe are individuals and administration of the United States Postal Service.

II. JURISDICTION.

8. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. §1331 and 1343(3). This proceeding is authorized and instituted pursuant to the federal laws set forth herein and supplemental jurisdiction (28 U.S.C. § 1367) of the claims under 42 USCS § 1983.

III. Allegations of Common Facts

9. Plaintiff has been employed by United States Postal Service for 17 years and as a career city postal carrier for at least 5 years currently at the Sharon Hill office of United States Postal Service.

10. Plaintiff has been employed as a United States Postal Service non-career postal carrier the West Chester office of United States Postal Service since April, 2016.

11. On or about November 14, 2015 Plaintiff filed a formal application for a position of postal police officer with the United States Postal Service while he was employed as a career city postal carrier of United States Postal Service at its Sharon Hill, Pennsylvania office.

12. Prior to filing the formal application on November 14, 2015 Plaintiff inquired of his United States Postal Service Supervisor and his shop steward of the American Postal Workers Union concerning his right to return to his position as career city carrier without loss of rate of pay or seniority at Sharon Hill if he did not become or stay at Postal Police

position and was advised by both persons that he could return to his career city postal carrier position.

13. On or about January 9, 2016 Plaintiff was assigned to training for the position of postal police officer of the United States Postal Service subject to completion of training and 180 days probation after completion of the training.

14. Prior to completing the Postal Police training Plaintiff decided to return to his former position as career city postal carrier at the Sharon Hill office of United States Postal Service and inquired of his supervisor at Sharon Hill of his right to return without loss of pay or seniority.

15. Plaintiff's supervisor Mui Ho, after consulting with the Complement Manager Judy Trainer, who consulted with postal administrators John Doe and Jane Doe, advised Plaintiff that he could return to his position of career city postal carrier at Sharon Hill without loss of pay or seniority upon leaving the postal police training.

16. Plaintiff also consulted with Judy Trainer, District Complement Coordinator concerning his right to return to his career city postal carrier position at Sharon Hill without loss of pay and seniority if he disenrolled in the Postal Police Training Program and she confirming to him his right to return to his former position.

17. Plaintiff disenrolled from the Postal Police Training Program based on their representation.

18. In February 2016 Plaintiff returned to his former position as a career city postal carrier at the Sharon Hill office at the same rate of pay seniority and route assignment.

19. After approximately 2-3 weeks after returning to his position at Sharon Hill as career city postal carrier Plaintiff was advised that he could not return to that position

from the Postal Police Training and that his employment with United State Postal Service was being terminated immediately and could no longer perform his duties.

20. Plaintiff was terminated officially on March 11, 2016.

21. Plaintiff requested assistance from his union, the American Postal Worker Union and its local officials to challenge his termination of employment based upon the prior advise and representations of Defendants.

22. The American Postal Workers Union and its local affiliate failed and refused to provide representation to Plaintiff concerning his employment or the termination thereafter.

23. Plaintiff filed a complaint of discrimination based on sex and race against United States Postal Service and with the EEOC based on Defendant's permitting a female career city postal carrier to return to her position after resigning from the Postal Police Training Program during 2014 and allowing a black male career city postal carrier to return to his position after leaving to train as a postal supervisor.

24. Plaintiff used accrued vacation as reported on his pay check following the termination of his employment with Defendant United States Postal Service.

25. In April 2016 Plaintiff applied for and obtained a position as a non-career postal carrier at West Chester office at substantially reduced pay and without seniority.

26. In October 2016 the Defendant United States Postal Service demanded that Plaintiff repay the accrued vacation he used after the termination of his employment from the United States Postal Service carrier service and attached Plaintiff's pay to repay the used vacation without notice to Plaintiff of the reason for such action or the opportunity for a hearing.

COUNT I - Plaintiff v. Megan J. Brennan Postmaster General - Discrimination

27. Plaintiff incorporates paragraphs 1 through 26 as though set forth herein at length.

28. Plaintiff was discriminated on the basis of sex and race by the termination of his employment after his return from training for Postal Police position when the Defendants have allowed others of a different sex and race to do so.

29. Plaintiff has suffered a loss of income, benefits, enjoyment of life, mental anguish, pain and suffering as a result of actions of Defendant United States Postal Service.

WHEREFORE, Plaintiff demands from Defendant United States Postal Service damages for loss of back pay, future pay, pension, benefits, seniority, loss of enjoyment of life, mental pain and anguish, punitive damages, attorney fees, costs and interest.

COUNT II - Plaintiff v. Megan J. Brennan Postmaster General – Express and Implied Contract

30. Plaintiff incorporates paragraphs 1 through 29 as though set forth herein at length.

31. Plaintiff reasonably relied upon the representation of Defendant United States Postal Service, by its agents, servants and employees of his right to return to his position as a career city postal carrier without loss of pay and seniority to apply for and return from the position at Postal Police Training all to his detriment resulting in the termination of his employment after his reinstatement and return to work as career city postal carrier.

32. Plaintiff has suffered a loss of income, benefits, enjoyment of life, mental anguish, pain and suffering as a result of actions of Defendant United States Postal Service.

WHEREFORE, Plaintiff demands from Defendant United States Postal Service damages for loss of back pay, future pay, pension, benefits, seniority, loss of enjoyment of life, mental pain and anguish, punitive damages, attorney fees, costs and interest.

COUNT III - Plaintiff v. Judy Trailer, Individual and as District Complement Coordinator, and Unnamed John Doe and Jane Doe, Individually, and as administrators of United States Postal Service – Negligent Misrepresentation

33. Plaintiff incorporates paragraphs 1 through 32 as though set forth herein at length.

34. Defendant Judy Trailer and unnamed John Doe and Jane Doe acted in a negligent, reckless, and wanton manner in advising Plaintiff that he could return to his position as career city postal carrier at Sharon Hill without loss of prior seniority from his training for a Postal Police position without appropriate inquiry of the facts, policy and procedures of United States Postal Services and facts applicable to Plaintiff prior to giving such advice and making such representation and subsequently requiring Plaintiff to be terminated from his position of city postal carrier and from the United States Postal Service.

35. It was foreseeable to Defendants that if their advice to Plaintiff was incorrect he would suffer damages and loss of employment.

36. As a result of actions of the Defendant Trailer Plaintiff has suffered a loss of pay, benefits, seniority, loss of enjoyment of life, mental pain and anguish, punitive damages, attorney fees, costs and interest.

WHEREFORE, Plaintiff demands from Defendant United States Postal Service damages for loss of back pay, future pay, pension, benefits, seniority, loss of enjoyment of life, mental pain and anguish, punitive damages, attorney fees, costs and interest.

COUNT IV - Plaintiff v. Megan J. Brennan Postmaster General and United States Postal Service Due Process, Fair Labor Standards Act, Pennsylvania Wage Payment and Collection Law

37. Plaintiff incorporates paragraphs 1 through 36 as though set forth herein at length.

38. Plaintiff had a protested property interest in accrued vacation pay as reported to him by Defendants as part of his pay for services rendered prior to and remaining unused as of the termination of to his employment by the United States Postal Service.

39. Defendants by attaching Plaintiff's pay to recoup Plaintiff's use of vacation pay without notice and opportunity for a hearing and the entry of any defense violated Plaintiff's federal constitutional due process rights, the Fair Labor Standards Act and the Pennsylvania Wage Payment and the Collection Law.

40. Plaintiff has suffered a loss of income, benefits, enjoyment of life, mental anguish, pain and suffering as a result of actions of Defendant United States Postal Service.

WHEREFORE, Plaintiff demands from Defendant United States Postal Service damages for loss of back pay, future pay, pension, benefits, seniority, loss of enjoyment of life, mental pain and anguish, punitive damages, attorney fees, costs and interest.

COUNT V - Plaintiff v. Defendants Megan J. Brennan Postmaster General and the United States Postal Service - Retaliation

41. Plaintiff incorporates paragraphs 1 through 40 as though set forth herein at length.

42. Defendants Brennen and the United States Postal Services in retaliation for Plaintiff's claim of discrimination attached Plaintiff's pay to which he was legally entitled to recoup pay to Plaintiff for unused and earned vacation pay following the term of his employment as a career city postal carrier.

43. Plaintiff has suffered a loss of income, benefits, enjoyment of life, mental anguish, pain and suffering as a result of actions of Defendant United States Postal Service.

WHEREFORE, Plaintiff demands from Defendants Brennan and the United States Postal Service damages for loss of back pay, future pay, pension, benefits, seniority, loss of enjoyment of life, mental pain and anguish, punitive damages, attorney fees, costs and interest.

COUNT VI - Plaintiff v. Defendants United Postal Workers Union and Local # 725 - Unfair Representation

44. Plaintiff incorporates paragraphs 1 through 43 as though set forth herein at length. Plaintiff is and has been a due paying member of the Defendants unions including the time Plaintiff spent in training for the Postal Police position.

45. Defendant American Postal Workers Union and its official Local # 725 failed to provide reasonable and adequate representation of Plaintiff as a member of the Union covered by the Collective Bargaining Agreement with the United States Postal Service by failing to pursue a grievance and/or arbitration on behalf of Plaintiff arising out of the termination of his employment as a career city postal carrier on or about February – March 2016 especially in light of the advice given by Defendants to Plaintiff of his right to return to such position from training for Postal Police position.

46. Plaintiff has suffered a loss of income, benefits, enjoyment of life, mental anguish, pain and suffering as a result of actions of Defendant United States Postal Service.

WHEREFORE, Plaintiff demands from Defendant United States Postal Service damages for loss of back pay, future pay, pension, benefits, seniority, loss of enjoyment of life, mental pain and anguish, punitive damages, attorney fees, costs and interest.

Respectfully submitted,

LAW OFFICES OF LEO A. HACKETT

BY: _____

A handwritten signature in black ink, appearing to read "Leo A. Hackett", is written over a horizontal line.

LEO A. HACKETT, ESQUIRE

Attorney I.D. No. 8936

102 Chesley Drive, Suite 1A

Media, PA 19063

(610) 565-7700

Attorney for Plaintiff